

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

CHESTER CLIFTON GRAHAM,

Plaintiff,

COURT FILE NO.: 0:13-cv-00138-JNE-JJG

v.

ANSWER OF DEFENDANT

GILA, LLC, d/b/a MUNICIPAL SERVICES
BUREAU,

Defendant.

Defendant Gila, LLC d/b/a Municipal Services Bureau (“Gila”) as and for its Answer to the Complaint of Chester Clifton Graham (“Plaintiff”), in the above-entitled matter, denies each and every allegation contained therein, unless otherwise admitted or qualified herein, and states and alleges as follows:

1. In response to paragraph 1 of Plaintiff's Complaint, Gila admits that Plaintiff assert a violations of the Telephone Consumer Protection Act ("TCPA"), but denies that it violated the TCPA or any other law.

2. Gila admits the allegations set forth in paragraph 2 of Plaintiff's Complaint.

3. In response to paragraph 3 of Plaintiff's Complaint, Gila denies that the acts alleged by Plaintiff occurred as set forth and therefore denies said paragraph.

4. Gila admits the allegations set forth in paragraph 4 of Plaintiff's Complaint, upon information and belief.

5. Gila has insufficient information and knowledge to either admit or deny the allegations set forth in paragraph 5 of Plaintiff's Complaint.

6. In response to paragraph 6 of Plaintiff's Complaint, Gila admits that Plaintiff has set forth addresses from which it does business.

7. Gila admits the allegations set forth in paragraph 7 of Plaintiff's Complaint.

8. Gila admits the allegations set forth in paragraph 8 of Plaintiff's Complaint.

9. In response to paragraph 9 of Plaintiff's Complaint, Gila states that no response is required.

10. Gila admits the allegations set forth in paragraph 10 of Plaintiff's Complaint.

11. Gila admits the allegations set forth in paragraph 11 of Plaintiff's Complaint.

12. In response to paragraph 12 of Plaintiff's Complaint, Gila states that Plaintiff has misstated the contents of the website and that Gila therefore denies said paragraph.

13. Gila admits the allegations set forth in paragraph 13 of Plaintiff's Complaint.

14. In response to paragraph 14 of Plaintiff's Complaint, Gila states that it did not use the dialing technology alleged by Plaintiff and therefore denies said paragraph.

15. Gila has insufficient information and knowledge to either admit or deny the allegations set forth in paragraph 15 of Plaintiff's Complaint.

16. Gila has insufficient information and knowledge to either admit or deny the allegations set forth in paragraph 16 of Plaintiff's Complaint.

17. Gila has insufficient information and knowledge to either admit or deny the allegations set forth in paragraph 17 of Plaintiff's Complaint.

18. In response to paragraph 18 of Plaintiff's Complaint, Gila admits that it called Plaintiff, but denies that the call was made using SmartDialz® as alleged. To all other extents, Gila has insufficient information and knowledge to either admit or deny the remaining allegations.

19. Gila admits the allegations set forth in paragraph 19 of Plaintiff's Complaint, upon information and belief.

20. In response to paragraph 20 of Plaintiff's Complaint, Gila admits that it called Plaintiff, but denies that the call was made using SmartDialz® as alleged. To all other extents, Gila has insufficient information and knowledge to either admit or deny the remaining allegations.

21. Gila admits the allegations set forth in paragraph 21 of Plaintiff's Complaint, upon information and belief.

22. In response to paragraph 22 of Plaintiff's Complaint, Gila admits that it called Plaintiff, but denies that the call was made using SmartDialz® as alleged. To all other extents, Gila has insufficient information and knowledge to either admit or deny the remaining allegations.

23. Gila admits the allegations set forth in paragraph 23 of Plaintiff's Complaint, upon information and belief.

24. In response to paragraph 24 of Plaintiff's Complaint, Gila admits that it called Plaintiff, but denies that the call was made using SmartDialz® as alleged. To all

other extents, Gila has insufficient information and knowledge to either admit or deny the remaining allegations.

25. Gila admits the allegations set forth in paragraph 25 of Plaintiff's Complaint, upon information and belief.

26. In response to paragraph 26 of Plaintiff's Complaint, Gila admits that it called Plaintiff, but denies that the call was made using SmartDialz® as alleged. To all other extents, Gila has insufficient information and knowledge to either admit or deny the remaining allegations.

27. Gila admits the allegations set forth in paragraph 27 of Plaintiff's Complaint, upon information and belief.

28. In response to paragraph 28 of Plaintiff's Complaint, Gila admits that it called Plaintiff, but denies that the call was made using SmartDialz® as alleged. To all other extents, Gila has insufficient information and knowledge to either admit or deny the remaining allegations.

29. Gila admits the allegations set forth in paragraph 29 of Plaintiff's Complaint, upon information and belief.

30. In response to paragraph 30 of Plaintiff's Complaint, Gila admits that it called Plaintiff, but denies that the call was made using SmartDialz® as alleged. To all other extents, Gila has insufficient information and knowledge to either admit or deny the remaining allegations.

31. Gila admits the allegations set forth in paragraph 31 of Plaintiff's Complaint, upon information and belief.

32. In response to paragraph 32 of Plaintiff's Complaint, Gila admits that it called Plaintiff, but denies that the call was made using SmartDialz® as alleged. To all other extents, Gila has insufficient information and knowledge to either admit or deny the remaining allegations.

33. Gila admits the allegations set forth in paragraph 33 of Plaintiff's Complaint, upon information and belief.

34. Gila denies the allegations set forth in paragraph 34 of Plaintiff's Complaint.

35. In response to paragraph 35 of Plaintiff's Complaint, Gila states that no response is required.

36. In response to paragraph 36 of Plaintiff's Complaint, Gila admits that Plaintiff seeks the relief therein set forth, but denies that Plaintiff is entitled to such relief.

37. In response to paragraph 37 of Plaintiff's Complaint, Gila admits that Plaintiff seeks the relief therein set forth, but denies that Plaintiff is entitled to such relief.

38. In response to paragraph 38 of Plaintiff's Complaint, Gila admits that Plaintiff seeks the relief therein set forth, but denies that Plaintiff is entitled to such relief.

39. In response to paragraph 39 of Plaintiff's Complaint, Gila states that no response is required.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

Plaintiff fails to state a claim upon which relief may be granted.

SECOND DEFENSE

Any violation of the law or damage suffered by Plaintiff, which Gila denies, was due to the affirmative actions and/or omissions of Plaintiff or others, and does not give rise to any liability of Gila.

THIRD DEFENSE

Any violation of the law or damage suffered by Plaintiff, which Gila denies, was due to the affirmative actions and/or omissions of Plaintiff or others, and does not give rise to any claim of damages against Gila.

FOURTH DEFENSE

Plaintiff has suffered no damages as a result of any acts or omissions of Gila.

WHEREFORE, Gila prays for an order and judgment of this Court in its favor against Plaintiff as follows:

1. Dismissing all causes of action against Gila with prejudice and on the merits; and,
2. Awarding Gila such other and further relief as the Court deems just and equitable.

MOSS & BARNETT
A Professional Association

Dated: January 23, 2013

s/ Michael S. Poncin
Michael S. Poncin (#296417)
James R. Bedell (#351544)
4800 Wells Fargo Center
90 South Seventh Street
Minneapolis MN 55402-4129
Telephone: (612) 877-5000
ATTORNEYS FOR DEFENDANT